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In re Application of: : DECISION REFUSING
Itzik Ben-Bassat et al. : STATUS
Application No. 09/880,103 : UNDER 37 CFR 1.47(a)
Filed: June 14, 2001 :
Attorney Docket Number: 05193.00009:

OFFICE OF PETITIONS

This is a decision on the Petition under 37 CFR 1.137(b), filed October 5, 2001, to revive the above-identified application.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The application became abandoned for failure to timely and properly reply to the Notice to File Missing Parts of Application ("Notice") mailed August 13, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice, and required, in relevant part, a fully executed oath or declaration.

A petition under 37 CFR 1.47(a) and a request for a three (3) month extension of time were filed on Monday, January 14, 2002. The petition was dismissed for failing to meet the requirements of a grantable petition under 37 CFR 1.47(a). The application subsequently went abandoned on January 14, 2002. The mailing of this decision precedes the mailing of a Notice of Abandonment.

The Instant Petition

With the instant petition, petitioner files an executed oath/declaration noting the joinder of the inventors. However, it is noted that the residence, citizenship, and post office address of the thirteenth inventor have been altered.

Applicable Law

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may be met by the filing of a notice of appeal and the requisite fee; a continuing application; an amendment or request for reconsideration which *prima facie* places the application in condition for allowance, or a first or second submission under 37 CFR 1.129(a) if the application has been pending for at least two years as of June 8, 1995, taking into account any reference made in such application to any

earlier filed application under 35 USC 120, 121 and 365(c); (2) the petition fee required by 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks item (1) above.

As to item (1), the oath or declaration has been altered, however, the alterations have not been initialed and/or dated as is required by 37 CFR 1.52(c). A properly executed oath or declaration which complies with 37 CFR 1.67(a) is required. See, MPEP 605.04(a).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
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By FAX: (703) 308-6916
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Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

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